

REMARKS

Claims 1-7, 9-12, 14-20, 22, 24-30, 32-38, 40-46, and 48 stand rejected under 35 U.S.C. 103(a) as being unpatentable by Srinivasan (US Patent Number 6,357,042).

Applicant has invented a method and apparatus for dynamically altering a portion of a digital video image based upon a user profile. As claimed in amended claims 1, 9, 16, 24, 32, 40, and 48 the method, service node, broadband network, and/or subscriber terminal includes utilizing a customer profile in order to replace an original element with a replacement image in a video stream. As amended, the claims state that the customer profile includes time of day information.

The Srinivasan reference relates to an interactive video system, see column 3, lines 42-43. For example, information can be presented to end users based on user interaction with an associated entity in a dynamic video display, see column 7, lines 45-48.

The Srinivasan reference discusses inserting video advertisements focused to certain user profiles, see column 30, lines 6-10. As used in this portion of the Srinivasan reference, the reference refers to "donut insertion", see column 31, lines 16-20. Donut insertions involves supplying blank video segments or time slots for the purpose of enabling advertisers to provide video ads to be inserted in the time slots, see column 31, lines 20-24. So in donut insertions, a video image is not altered, but rather an open time slot is provided, and an entirely new video stream is inserted into the time slot. This is often done to provide regional advertising to advertisers.

Applicant's invention, conversely, relates to replacing a portion of a video image to form a modified video image. The Srinivasan reference does not teach or suggest such claims.

The Office Action admits that the Srinivasan reference does not teach or suggest utilizing a profile that contains time of day information. The Examiner takes official notice that profiles including time of day are well known in the art. Applicant respectfully disagrees and traverses this assertion. Applicant is not aware of user or customer profiles that includes time of day information.

Even if such profiles exist, there would be no suggestion or motivation to modify the Srinivasan reference to include time of day information. As used in the Srinivasan reference, the

user profile is used to allow an entire video stream to be inserted into a time slot provided in an original video stream. This is fundamentally different from Applicant's invention, which replaces a portion of a video stream based upon a customer profile to provide a modified video image or stream which is transmitted to the customer.

For all these reasons, Applicant believes that the Srinivasan reference, even when combined with the Examiner's official notice, does not teach or suggest Applicant's invention as embodied in the claims of Applicant's invention.

Applicant appreciates the Examiner's acknowledgment of patentable subject matter as indicated by the allowance of claims 8, 13, 21, 23, 31, 39, and 47 if rewritten in independent form.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 1-7, 9-12, 14-20, 22, 24-30, 32-38, 40-46, and 48 under 35 U.S.C. 103(a) and allow claims 1-48. Applicants believe that the application is in condition for allowance. Favorable reconsideration of this application in light of the above is respectfully requested. If a telephone interview with Applicant's Attorney would further the prosecution of the present application, the Examiner is invited to contact the undersigned at the indicated telephone number.

Respectfully,

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